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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/087,981  | 03/05/2002  | Luc Nougier          | 612.41239X00        | 6977             |
| 20457   | 7590        | 08/31/2006           | EXAMINER            |                  |
| ANTONELLI, TERRY, STOUT & KRAUS, LLP<br>1300 NORTH SEVENTEENTH STREET<br>SUITE 1800<br>ARLINGTON, VA 22209-3873 |             |                      | DUONG, THANH P      |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 1764                |                  |

DATE MAILED: 08/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/087,981 | <b>Applicant(s)</b><br>NOUGIER ET AL. |  |
|                              | <b>Examiner</b><br>Tom P. Duong      | <b>Art Unit</b><br>1764               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Applicants' remarks and amendments filed on August 2, 2006 have been carefully considered. Claims 2, 3, 6-16 and 23 have been amended. Claims 17-20 have been canceled. Claims 1-16 and 21-23 are pending in this application.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Busson et al. (5,554,347) or Alagy et al. (5,270,016). Regarding claims 1 and 23, Busson and Alagy disclose a reactor device (Fig. 1B, and Fig. 1C) for carrying out chemical reactions requiring heat exchange (3), said reactor, which is elongate along an axis, having, at a first end (inlet), at least one means (5) for supplying at least one reactant and, at an opposite end, at least one means (10) for evacuating the effluents formed, and having a plurality of heat exchange means (3) separated by at least one internal partition (11,22) participating in controlling the residence time (Col. 11, lines 42-45) of the reactant or reactants and increasing the heat exchange surface inside the reactor (Col. 10, lines 63-67 and Col. 11, lines 1-5), and passages for circulating the reactant or reactants and/or effluents (distance Ee), provided between said heat exchange means and said internal partitions (Col. 11, lines 48-52), characterized in that

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the reactor (Fig. 1B, Fig. 1C) has at least one enclosure (12) of a refractory material made of ceramic material (Col. 11, lines 39-41) of ensuring heat insulation and containing the heat exchange means (3) and internal partitions (11,22), and in that said enclosure is contained in an envelope (outer walls of reactor) containing the reactant or reactants and/or effluents circulating inside said reactor, and in said enclosure substantially covers all internal walls of said envelope.

2. Claims 1, 3, 6, 10-11, 13-16, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Busson et al. (6,027,635). Regarding claims 1, 3, 6, 10-11, and 21-23, Busson discloses a reactor device (Figure) for carrying out chemical reactions requiring heat exchange (8), said reactor, which is elongate along an axis, having, at a first end (inlet), at least one means (supply lines 1-6) for supplying at least one reactant and, at an opposite end, at least one means (via lines 41-46) for evacuating the effluents formed, and having a plurality of heat exchange means (8) separated by at least one internal partition (impermeable walls) participating in controlling the residence time of the reactant or reactants and increasing the heat exchange surface inside the reactor, and passages (channels) for circulating the reactant or reactants and/or effluents, provided between said heat exchange means and said internal partitions, characterized in that the reactor (Figure) has at least one enclosure (impermeable walls along the housing or envelope) of a refractory material made of ceramic material (Col. 4, lines 1-4) of ensuring heat insulation and containing the heat exchange means (8) and internal partitions (impermeable walls), and in that said enclosure is contained in an

envelope (outermost walls of reactor) containing the reactant or reactants and/or effluents circulating inside said reactor, and in that the enclosure is fitted to the containment envelope in such a way as to prevent gas bypasses between the outside of said enclosure and the inside of said enclosure; the internal partitions have recesses (channels) for receiving the heat exchange means; wherein the outside of said enclosure is in direct contact with the inside of said envelope; wherein the outside of said enclosure has a section and dimension substantially equal to that of the inside of said envelope; and wherein said enclosure substantially covers all internal walls of said envelope. Regarding claims 13-16, Busson discloses the reactor can be used in various process of the claimed invention (Col. 1, lines 6-10 and Col. 4, lines 15-20). Note, apparatus claims cover what a device is, not what a device does. See *Hewlett-Packard Co. v. Bausch & Lomb Inc.* 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2, 4-5, 7-9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busson '635 in view of Grehier et al. (4,612,982). Regarding claims

2 and 4-5, Busson '635 appears to disclose the internal partitions made of modular elements (Figure). For purpose of argument, Grehier teaches the heat transfer plates are stacked into lattices to form a modular structure to allow easy adaptation of different type of fluids (Col. 1, lines 5-9 and Col. 1, lines 40-68). Thus, it would have been obvious in view of Grehier to one having ordinary skill in the art to modify the partition plates of Busson '635 with a modular structure as taught by Grehier in order to allow easy adaptation for operating different type of fluids. The applied references disclose the internal partitions of the claimed invention and it would have been obvious in view of the applied references to one having ordinary skill in the art to provide abutting or non-abutting modular elements since the court held that the use of a one-piece construction versus a single integral piece would be merely a matter of obvious engineering choice. See *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 19650) and *Schenck v. Norton Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). Furthermore, Applicants have not disclosed criticality or unexpected results for providing abutting or non-abutting modular elements. Regarding claim 7, it would have been obvious in view of the applied references to one having ordinary skill in the art to change the size and shape the shell (reactor wall) versus the envelope (12) to optimize the reaction zone. In addition, the court held that a change in size and shape is not patentably distinct over the prior art. See *In re Rose*, 220 F.2d 459, 105 USPQ 237 (CCPA 1955), *In re Rinehart*, 531 F.2d 1048, *In re Dailey*, 357 F.2d 669. Regarding claim 8, it is conventional to provide envelope or reactor wall made of metal and it would have been obvious to do so here to provide metal wall with adequate support to the internal

structure and withstand internal vessel pressure. Regarding claim 9, it is conventional to provide anchoring means between the reactor wall and the enclosure 10 or refractory material and it would have been obvious to do so here to facilitate fastening and/or securing the refractory enclosure to the reactor wall or envelope. Regarding claim 12, Busson '635 appears to show the versatility of the heat exchange construction allowing reaction zone with modification of various length; thus, it inherently and/or obvious that the applied references provide heat exchange means and internal partition with easy access to the internal parts for modification, service and/or repairs.

### ***Response to Arguments***

Applicant's arguments filed 8/2/06 have been fully considered but they are not persuasive. (1) Applicants' argued the projection portions 12 of Busson et al. '347, provided on only two side walls do not surround the heat exchange means and internal partitions on all sides in Busson et al. Therefore, the Busson et al. '347 patent does not disclose a reactor including the presently claimed enclosure. Examiner respectfully disagrees. Busson et al. '347 shows the projection portion 12 containing in the envelope (reactor wall) and the projection portion 12 substantially covers all internal walls of said reactor wall. Note, the only difference between the claimed invention and the applied references Busson et al. '347 or Alagy et al. '016 is that the reactor of the claimed invention has an envelope with a plurality of feed orifice and the applied references has an envelope (reactor wall) with a single feed in connection with a



distributor chamber (2). However, both Busson and Alagy disclose the reactor wall is lined with an enclosure of a refractory material and contains the heat exchange means and the internal partitions. There is no gas bypass between the reactor wall and the refractory material. (2) With respect to the argument of Busson et al. '635, it is submitted that the reactor wall of Busson et al. '635 is lined with the enclosure wall on all sides as shown in the Figure.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom P. Duong whose telephone number is (571) 272-2794. The examiner can normally be reached on 8:00AM - 4:30PM.




If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tom Duong  
August 21, 2006

Tb

  
Glenn Caldarola  
Supervisory Patent Examiner  
Art Unit 1700